

General Information Letter: Interest on an Illinois obligation may be subtracted only if expressly exempted from Illinois income taxation by statute.

June 2, 2005

Dear:

This is in response to your letter dated April 22, 2005, in which you request a letter ruling. The nature of your request and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at www.revenue.state.il.us.

In your letter you have stated the following:

Enclosed is a copy of the letter dated April 4, 2005 which we received from the Illinois Department of Revenue informing us that some bonds we listed as tax-exempt on our 2004 Illinois 1040, Schedule M, line 21, were disallowed by the Department. Enclosed also is our April 6, reply to that letter. We have also enclosed a copy of Schedule M as submitted with our 2004 tax return, for your convenience.

The brokers at COMPANY1 and COMPANY2, from whom we purchased the bonds, identified the bonds as being both federal and state tax-exempt. The April 4 correspondence does not identify which bonds were disallowed, only a dollar amount. We need to know the identity of the disallowed bonds in order to obtain verification of the tax-exempt status, and for accuracy in preparing future tax returns.

On Tuesday of this week we spoke to a representative in the Department of Revenue who informed us that she would not tell us over the phone which bonds were deemed to be non-exempt, nor could she assure us that the Department would furnish the information in response to our April 6 letter. The representative told us that we should direct our inquiry to you for identification of the disallowed bonds on our Schedule M, line 1, as the Legal Division had prepared the list of tax-exempt bonds for use by the Department of Revenue in checking this year's tax returns.

We are at somewhat of a loss as to how we can accurately determine the tax-exempt status of bonds we purchase. We have always relied on the brokerage houses from whom we purchase bonds to know the status of bonds in their inventory. In discussing this problem with representatives at COMPANY1 and COMPANY2, we understand that the tax-exempt status of bonds may be found in the prospectus. However, we would like to know if the Department of Revenue accepts prospectus statements as correct tax-exempt information. Brokers with whom we have spoken at COMPANY2 informed us that they rely on the Bloomberg System to determine the tax-exempt status of bonds. Does the Department accept the Bloomberg System as an accurate source for determining tax-exempt status? We have read the Department of Revenue Publication 101, which gives general information, but does not have any information as to where the tax-exempt status of specific bonds can be found. We have also searched the internet for sources listing specific bond information, but have found nothing.

Please send us a list of the bonds the Department has not accepted as tax-exempt on our return. In order to be sure that we know the accurate status of the bonds already in our portfolio and for future reference, we would like to know the source the Legal Division used to determine tax-exempt status so that we can use it to check for accuracy, and would appreciate a copy of the list.

Response

The Illinois Income Tax Act does not contain any provision exempting interest on Illinois bonds. Rather, Section 203(a)(2)(N) of the Illinois Income Tax Act (35 ILCS 5/203) permits individuals to subtract amounts:

which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the United States; provided that, in the case of any statute of this State that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the interest net of bond premium amortization.

Thus, the exemptions for Illinois bonds are contained in statutes authorizing the bonds to be issued.

Except as explained below, Publication 101 contains a complete listing of all Illinois bonds that are exempt from Illinois income tax. 86 Ill. Adm. Code Section 100.2470(f) contains the same listing, and includes citations to the statutes exempting the interest on the bonds from taxation, as well as two Illinois investment programs that generate exempt interest, as follows:

- 1) Notes and bonds issued by the Illinois Housing Development Authority (except housing-related commercial facilities notes and bonds) [20 ILCS 3805/31].
- 2) Bonds authorized pursuant to the Export Development Act of 1983 (former Ill. Rev. Stat. 1991, ch. 127, par. 2513, repealed by P.A. 87-860, effective July 1, 1992).
- 3) Bonds issued by the Illinois Development Finance Authority pursuant to Sections 7.50 - 7.61 (venture fund and infrastructure bonds) [20 ILCS 3505/7.61¹].
- 4) Bonds and notes issued by the Quad Cities Regional Economic Development Authority, if the Authority so determines [70 ILCS 510/11, 510/13, 515/11, and 515/12].
- 5) College Savings Bonds issued under the General Obligation Bond Act in accordance with the Baccalaureate Savings Act [110 ILCS 920/7].
- 6) Bonds issued by the Illinois Sports Facilities Authority (White Sox Bonds) [70 ILCS 3205/15].

- 7) Bonds issued on or after September 2, 1988, pursuant to the Higher Education Student Assistance Act [110 ILCS 947/145] (transferred from 105 ILCS 5/30-15.18 by P.A. 87-997).
- 8) Bonds issued by the Illinois Development Finance Authority² under the Asbestos Abatement Finance Act [20 ILCS 3510/8].
- 9) Bonds and notes issued under the Rural Bond Bank Act [30 ILCS 360/3-12³].
- 10) Income earned on investments made pursuant to the Home Ownership Made Easy Program [310 ILCS 55/5.1].
- 11) Bonds issued pursuant to Sections 7.80 - 7.87 of the Illinois Development Finance Authority Act [20 ILCS 3505/7-86⁴].
- 12) Up to \$2,000 of income derived by individuals from investments made in accordance with College Savings Programs established under former Section 30-15.8a [105 ILCS 5/30-15.8a].
- 13) Bonds issued by the Quad Cities Interstate Metropolitan Authority under the Quad Cities Interstate Metropolitan Authority Act [45 ILCS 35/110].
- 14) Bonds issued by the Southwestern Illinois Development Authority pursuant to the Southwestern Illinois Development Authority Act [70 ILCS 520/7.5].

Also, P.A. 93-205 created the Illinois Finance Authority Act. In that Act, 20 ILCS 3501/820-60 and 3501/825-55 provide that bonds issued by the Illinois Finance Authority are exempt from Illinois income taxation. The changes made by P.A. 93-205 will be added to 86 Ill. Adm. Code Section 100.2470 and will be reflected in future editions of Publication 101.

The interest on any bond issued by the State of Illinois, or by one of its agencies or political subdivisions, that is not described above, is not exempt.

The bonds that are not exempt, but for which you claimed subtractions, are:

<u>Identification</u>	<u>Interest</u>
Northern 5.125% 07	\$4,276
Champaign Co. IL 4.25% 12	727
Chicago IL Metro Water Reclam 5.4% 06	1,188
Franklin Park 5.5% 06	<u>977</u>
Total	\$7,118

In addition, in processing your return, we erroneously disallowed the subtraction of \$4,417 in interest you received from bonds issued by the Illinois Sports Facility Authority, bringing the total disallowance to \$11,535. Your liability has been adjusted to correct this error.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b). If you have any further questions, you may contact me at (217) 782-7055.

Sincerely,

Paul S. Caselton
Deputy General Counsel – Income Tax

¹ This section was repealed by P.A. 93-205, effective January 1, 2004, which provides in 20 ILCS 3501/845-60 that bonds issued under this section continue to be exempt from taxation.

² Renamed the Illinois Finance Authority in P.A. 93-205.

³ This section was also repealed by P.A. 93-205, effective January 1, 2004, and 20 ILCS 3501/845-60 also provides that bonds issued under this section continue to be exempt from taxation.

⁴ This section was also repealed by P.A. 93-205, effective January 1, 2004, and 20 ILCS 3501/845-60 also provides that bonds issued under this section continue to be exempt from taxation.